

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 11TH OCTOBER 2007 / 19TH ASWINA 1929

CrI.MC.No. 3144 of 2007()

CC.26/2007 of JUDL.MAGISTRATE OF FIRST CLASS COURT-I, KANNUR
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PETITIONER/4th ACCUSED:

THEKKE PURAYIL SANDHYA,
W/O.ANACKAL PUTHIYA PURAYIL
JAYENDERA BABU, AGED 40 YEARS,
PERMANENTLY RESIDING AT RACHA NILAYAM,
KAKKAD, KANNUR

BY ADV. SRI.V.RAMKUMAR NAMBIAR

RESPONDENT/COMPLAINANT:

1. STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM,
2. THE STATION HOUSE OFFICER, KANNUR
TOWN POLICE STATION

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 11/10/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J.

Crl.M.C.No.3144 of 2007

Dated this the 11th day of October 2007

O R D E R

The petitioner is the fourth accused and she faces indictment in a prosecution for the offence punishable under Section 498A I.P.C. The petitioner was enlarged on bail at the crime stage. Investigation is now complete. Final report has been filed. Cognizance has been taken by the learned Magistrate also. The matter stands posted for appearance of the petitioner. The co-accused have already entered appearance.

2. According to the learned counsel for the petitioner, the petitioner is now residing along with her husband at his place of employment abroad. The petitioner had come to India in April 2007 consequent to the death of her father and returned along with her husband. The petitioner cannot aspire to return to India in the immediate future. Huge expenses will have to be incurred for her to return to India for this case only.

3. The petitioner, in these circumstances, wants the court to permit her to appear through counsel. Unless such

indulgence is shown, great prejudice and hardship would result. The petitioner wants to argue for a discharge as sufficient and satisfactory allegations are not raised against her at all. The learned counsel for the petitioner only prays that the petitioner may be permitted to appear through counsel and raise her plea for discharge. Her personal presence may be insisted only at the stages of the trial where such appearance is absolutely essential. She may indulgently be granted reasonable time to so appear also. This, in short, is the prayer made.

4. Having considered all the relevant circumstances, I am of the opinion that appropriate directions can be issued under Section 482 Cr.P.C in favour of the petitioner.

5. This petition is, in these circumstances, allowed in part. The learned Magistrate shall permit the petitioner to appear through a counsel at this stage. Her personal presence need not be insisted. She shall be permitted to advance her plea of discharge through her counsel. Appropriate decision on such plea of discharge will be taken under Section 239/240 Cr.P.C. If and only if charges are decided to be framed against the petitioner, her personal presence need be insisted by the learned

Magistrate. Until such time, the petitioner shall be permitted to appear through counsel. If such personal presence be necessary, the petitioner shall be at liberty to inform the date by which she shall return to India and appear before the learned Magistrate. Such request will be considered by the learned Magistrate on merits and appropriate orders passed.

(R.BASANT, JUDGE)

jsr

// True Copy//

PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007